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Is Bill Press Hearing from Screwtape?

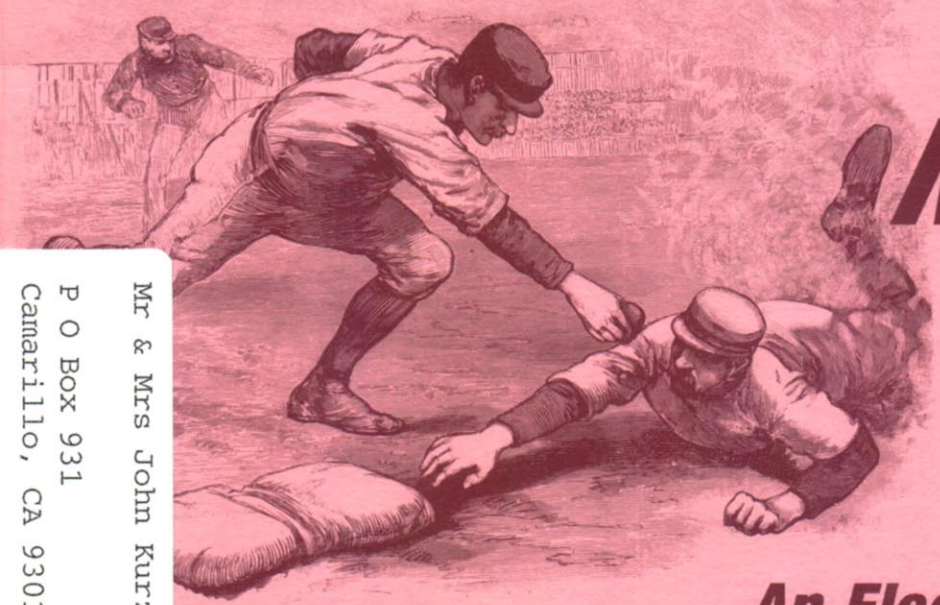
CALIFORNIA ★ POLITICAL
REVIEW
SEPTEMBER/OCTOBER 1996 • VOLUME 7 • NUMBER 5 • $4.50

Todd Gitlin: Wondering Where The New Left Went Wrong
by Phillip E. Johnson

The California Dream, Part II
by Terry Eastland

John Schlesinger's Unfunny Comedy
by G.B. Tennyson

Stretch Run To November



By Christopher Shelton

An Electoral Nightmare or Sweet Dreams For The GOP?

Mr & Mrs John Kurzweil
P O Box 931
Camarillo, CA 93011-0931

Responding to — THE COURT'S WAR ON THE FAMILY

The State Supreme Court Rehears *American Academy of Pediatrics v. Lungren*

L.P. Arnn ∞ Gary L. Bauer ∞ Rob Hurtt ∞ Gideon Kanner ∞ Gary G. Kreep
Alister McAlister ∞ William Rusher ∞ Bruce Thompson

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FOR STRONG FAMILIES AND THE RULE OF LAW

THE PARENTS RIGHTS COALITION exists to demonstrate the breadth and depth of popular support and legal justification for California's law — once upheld, but now subjected a second time to Supreme Court review — requiring minor children to obtain their parents', or a judge's, permission before an abortion is performed on them.

BACKGROUND

This law was passed in 1987 by a Democrat-controlled Legislature recognizing and encouraging parents' central role in leading children toward responsible adulthood. Signed by Governor George Deukmejian, it is supported by Governor Pete Wilson and its constitutionality was upheld last April in a state Supreme Court opinion written by the Court's most liberal member, Stanley Mosk. Similar laws have been held constitutional by the U.S. Supreme Court and 70 percent of Americans believe parents have both the right and the responsibility this law enjoins.

But a tiny minority of abortion absolutists persuaded a newly-sworn-in majority of the state high Court to vote May 22 to re-hear the case. Even though state law requires minors under 18 to obtain parental consent before obtaining a driver's license or using a tanning facility, Attorney General Dan Lungren, whose office won this battle once, must now prepare to fight it a second time.

QUESTIONS RAISED — ACTION DEMANDED

The re-hearing threatens trust among parents and children. It undermines parental responsibility and strong families. It calls into question the constitutionality of curfew laws and other efforts to restore social stability for young Californians. Rulings that flip-flop with changes in Court membership undermine judicial independence and the rule of law. Democratic institutions are undermined when extreme political factions use the judiciary to impose their will on all of us. And, finally, what does it mean to say that, even within families, some questions (abortion, say) belong outside any definable moral framework, that we should never ask: Is it right?

If the people are not informed about what the Court is doing to them, Attorney General Lungren will fight alone against heavy odds to save this popular law. That's why The Parents Rights Coalition will sponsor a public education program including establishing a statewide FAX network and Speakers Bureau, and will publish definitive defenses of the law, and the arguments of its opponents, by recognized, responsible, articulate experts, and distribute them throughout the state.

Most Californians believe in strong families, responsible parents, and judges who serve, rather than make, the law. It is time to be counted.

Join The Parents Rights Coalition today.

For information, call (805) 445-9183

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California Political Review (ISSN 1075-3079) is published bimonthly by the California Public Policy Foundation. Send address changes, manuscripts, and Correspondence to: Editor, *California Political Review*, Post Office Box 931, Camarillo, CA 93011-0931. Unsolicited manuscripts should be accompanied by a stamped, self-addressed envelope. Signed articles express their authors' opinions and do not necessarily reflect the views of the California Public Policy Foundation which does not endorse or oppose candidates or intervene in any candidate election campaign. Unsigned editorials express the editors' opinions and not necessarily the views of the California Public Policy Foundation. Rates: $27 yearly (six issues). Outside U.S. add $4 per year surface, $20 for airmail. *California Political Review* is copyright © 1996 by the California Public Policy Foundation.

California Political Review (ISSN 1075-3079) is published bimonthly for $27 per year by the California Public Policy Foundation, 15456 Ventura Blvd., Suite 300, Sherman Oaks, CA 91403. Second-Class Postage Paid at Van Nuys, CA. POSTMASTER: Send address changes to *California Political Review*, P.O. Box 931 Camarillo, CA 93011-0931.

CORRESPONDENCE

Nice Going

I enjoyed William Allen's "Communing with the Sages of Mobile Home-Land" (*CPR*, May/June). Thanks for printing it.

Dennis Gura
Santa Monica

Cavalier George

The two views given in "The Court's War on the Family" (*CPR*, July/August) point up the judicial system's declining legitimacy in California and the nation at large. That the courts have been corrupted is almost a cliché, a point proven by Chief Justice Ronald M. George's cavalier attitude toward forcing the beliefs and opinions of hack judges onto the public. George makes much of precedent and the fact that few decisions are overturned on appeal. Precedent simply allows the courts to cast their dictatorial decisions in concrete while simultaneously escaping the responsibility therefor. That few decisions are overturned proves nothing — the judges are a self-perpetuating elite who protect their turf (*e.g.*, the Three Strikes decision).

A recent book by Gregory L. Vistica (*Fall From Glory: The Men Who Sank the U.S. Navy*, Simon and Schuster, 1995) attributes the decline in the U.S. Navy's fortunes to the clique of admirals who run it. While there is certainly some truth to Vistica's charges about the Navy, a much better example of an elite run awry in the way he describes is the American judiciary, a thoroughly corrupted system. The sooner the people of the state, indeed of the nation, cut it down to size, the better off we will be!

Robert C. Whitten
Cupertino

Additional reaction to "The Court's War on the Family" appears beginning on page 17 of this issue.

— Editor

Steinberg, Coastal Commissioner

New Coastal Commissioner Arnold Steinberg's "Bureaucracy Watch" article ("We Live in America, Not Albania," *CPR*, July/August) is one of the best you have run: clear, informative, and revealing. I was not aware of how flawed many of the C.C.'s actions are and certainly hope Mr. Steinberg's objectives are accomplished.

I personally have not swum in the Pacific Ocean near Santa Monica since I experienced the clear waters off the Caribbean islands many years ago. Our water is disgustingly dirty. I wish Mr. Steinberg and those on the Commission who agree with him every success in clearing up the mud in every branch of our coastal proceedings.

Judy Black
Los Angeles

My esteemed friend and colleague of some 30 years, Arnold Steinberg, has outdone himself. Arnie's inaugural comments as a new member of California's Coastal Commission should be required reading for every first-year law student, newsroom editorialist, and public official.

Arnie adroitly points out that it is not property that holds rights, but people who hold such rights. The agrarian reformers and commissars of redistributive miasma have for far too long struck fear in the hearts of the citizens of California who dare to earn, invest and risk their resources in the belief there was still such a thing as private property in the Golden State.

Mr. Steinberg has spent too many years effectively advising and polling for

(Please turn to page 27)

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SACRAMENTO SPECTATOR

The Legislature has adjourned with its usual late night/early morning marathon sessions. They were basically much ado about nothing. Senate President Bill Lockyer successfully killed most of the really good GOP initiatives that passed the Assembly after Curt Pringle became Speaker. Senate GOP Leader Hurtt sees a silver lining, though, in the ability of Republican Senate candidates to point to Lockyer and the Democrats as the roadblock to the things voters want — saving Three Strikes, implementation of Proposition 187, regulatory relief, tax reductions, welfare changes that Governor Wilson has been proposing, and so on.

And in fact if the Dole/Kemp ticket stays competitive in California and the Republican base vote stays energized (distinctly *not* what happened in 1992), there are some pundits who see a 2-seat pick-up for the GOP in the state Senate as possible. That would almost certainly lead to Lockyer's overthrow as Senate President Pro-Tem, which would be good news for all California taxpayers.

On the Assembly side, the Republicans under Speaker Pringle kept their word. They passed an ambitious program of reforms, tried to cut taxes, moved to save the "Three Strikes" law and implement Proposition 187 in spite of liberal courts — all in all a sound agenda that a large majority of Californians would agree with. The question now is whether GOP candidates for the Assembly can make this case to the voters and convince them to return a Republican majority next November.

Much of the success of that endeavor rests with the dynamics at the top of the ticket — Dole vs. Clinton and the mood of the respective Democrat and Republican base votes. Are the Republicans energized by their chance to depose Goober and Evita from the White House? Are the Democrats gleeful at the prospect of a Clinton landslide and renewed Democrat control of Congress? Such dynamics drastically alter the nature of who actually turns out to vote. And that, obviously, drastically alters the election results.

The GOP majority in the Assembly is insulated somewhat by two factors. The first is the old Tip O'Neil adage that "all politics is local." Voters tend to like their local representative even when they believe the Legislature or Congress as a whole is worthless.

The second factor is the now *out-in-the-open split among* Assembly Democrats. Put most simply, the Democrats in the lower house are fighting over who gets to be Speaker — before they actually have the majority. They apparently have never heard the axiom about the cart and the horse, because their fighting is definitely having a deleterious (that means bad, for readers who went to public schools) effect on the campaigns of Democrat Assembly candidates. The first is basically between the ultra-liberal "Anglo" Democrats led by Wally Knox and the slightly less liberal (and in some cases actually prolife) Hispanic Democrats led by Cruz Bustamonte and Luis Caldera.

Both of these factions are raising money on their own, as well as conducting what amounts to separate campaigns for their own favored Democrat nominees. *Bottom line is that the PAC* community is confused, and when the PAC community is confused their contributions drop off.

This has added to an already existing fund-raising advantage the GOP has enjoyed by virtue of its Assembly majority. All of this bodes well for Speaker Pringle and his troops. The Republican majority in the Assembly probably could not survive a Clinton blow-out victory in the state. However, signs are increasingly pointing to continued GOP rule in the Assembly if November produces anything but a Democrat landslide.

— A.P.C.

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The New Robber Barons

As the "supply" of lawyers soars, so does the cost of legal services. This is a free market?

MARK S. PULLIAM

ONE OF the arguments raised in opposition to Proposition 202 — narrowly defeated on the March ballot — was that reasonable limits on trial lawyers' contingency fees would interfere with the free market. Some trial lawyers (a group not normally thought of as devotees of Adam Smith) went so far as to characterize Proposition 202 as a socialistic attempt at "attorney wage-and-price controls." (See, *e.g.*, Shawn Steel, "Pure No Fault and Wage and Price Controls," *CPR*, Summer 1995.) In fairness, however, it wasn't only trial lawyers who espoused this objection. The California Republican Assembly also opposed Proposition 202, ostensibly on philosophical grounds, as did free market stalwarts such as economist Benjamin Zycher.

This raises an interesting question: *Is* there a free market for legal services? Do the laws of supply and demand operate when it comes to lawyers? In many ways, the legal profession resembles a state-sanctioned cartel. Lawsuits, which are ultimately a form of government coercion, do not qualify as free market transactions. If you are sued, your only "choice" is to hire an attorney or submit to a default judgment. Intuitively, it seems clear that the demand for many other forms of legal services is similarly inelastic. But what economic data are there?

Consider these items: Successful plaintiffs' lawyers make more money than most CEOs and entrepreneurs. *Forbes* estimates that California's own Bill Lerach — king of the shareholder strike suit — earned $7 million in 1994. In Texas, trial lawyers Joe Jamail (of Pennzoil fame) and breast implant class action mogul John O'Quinn (a regular subject of obloquy from *The Wall Street Journal's* editorial page) have bestowed enough of their contingent fee booty on their alma maters (the University of Texas and the University of Houston, respectively) that those institutions have named buildings in their honor. (Bill Lerach contributes to the Democrat Party instead of his alma mater, but in light of Bill Clinton's veto of the federal securities litigation reform legislation the White House may as well be named after him.)

Trial lawyers are not the only beneficiaries of the legal system. Lawyers representing businesses, who typically practice in large law firms, have also made out quite well. The June 1996 issue of *The American Lawyer*, a slick magazine with plenty of ads directed at the law firm audience — sort of a combination of *Fortune* and *Vanity Fair* for wealthy corporate attorneys — had this to say in an article on economic trends in the legal profession:

> [L]aw has continued to be a growth industry. The most basic and far-reaching question is: How can that possibly continue?
>
> The total active lawyer population rose 11.5 percent from 1988 to 1991, according to the American Bar Foundation, and another 11.2 percent from 1991 to 1995. It is projected to jump yet another 12.3 percent by 2000. On a per-capita basis, the lawyer population has more than doubled over the last 30 years.
>
> Economically, the profession has grown even faster. The portion of the gross domestic product made up of legal services has tripled since 1950, according to Department of Commerce figures. Lawyers accounted for 1.5 percent of all the value added in the economy in 1993. Through recessions and booms, the trend has been inexorably up: Lawyers' share of the economy has grown faster even than that of health services ....
>
> That's the macro picture. Now zoom in on the top end of the market, to the lawyers in the large firms that *The*

Mark S. Pulliam, California Political Review's *legal issues correspondent, is an attorney in private practice in San Diego.*

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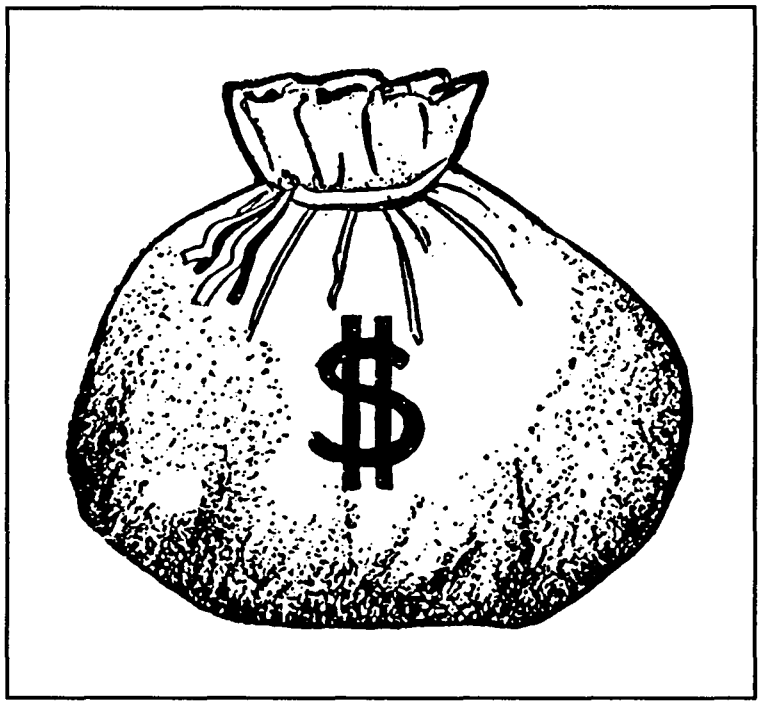
American Lawyer focuses on. You can see *the feast that has resulted for individual lawyers as the profession's slice of the total economic pie has enlarged.*

> Revenue per lawyer in the 100 largest firms has outpaced inflation from 1986 to 1994. Even after the anemic early years of this decade, average profits per partner at the "Am Law 100" firms [the nation's largest 100 law firms] still beat inflation over the last ten years. While this year's "Am Law 100" data for 1995 is not complete, it is likely that average profits at many of those 100 largest firms moved out well ahead of inflation last year, putting partners at those firms even further ahead of inflation over the long term. *[Emphasis added.]*

Accompanying the article are some fascinating graphs, two of which pose a conundrum for the thesis that there is a free market for legal services. One plots the ratio of lawyers per capita (not the absolute number of lawyers, but the concentration of lawyers as a percentage of the population), which has steadily risen over the past five decades, from 1.5 per 1,000 persons in 1950 to nearly 3.5 per 1,000 in 1995. So, the number of lawyers has grown at more than twice the rate of the population as a whole. (By contrast, Japan has only .12 lawyers per 1,000 inhabitants; Great Britain, 1.03; and Germany, .99.)



OVER THE same time period, lawyers have consumed an increasing share of the U.S. domestic economy, from less than .5 percent of gross domestic product in 1950 to 1.5 percent in 1993. (These numbers measure only direct expenditures on legal services. As University of Chicago law professor Richard Epstein notes, the total economic burden of compliance with legal norms is doubtless much higher.) Even as the "supply" of lawyers has increased (in both absolute and relative terms), the cost of legal services has risen also. This does not sound like a free market at work: If the supply of a commodity increases, price is supposed to decline, assuming demand remains constant. These charts do not necessarily refute the free market thesis, because increased demand may have outstripped the increased supply.

The article in *The American Lawyer,* not a lawyer-bashing publication, addressed that possibility: "To some degree, a growing population of lawyers may feed upon itself — stirring up litigation, dreaming up regulations, and embellishing corporate transactions." Indeed. Political scientist Edward Luttwak, expressing quite a less sanguine tone than *The American Lawyer,* makes the same point more forcefully:

> How do all these U.S. lawyers find work? In every way imaginable is the answer — and too many of them are dysfunctional for American society at large. An excess of bakers does not lead to an excess of baking, because consumer demand for bread and cake dictates how much baking can go on. But the law is also an instrument of power, and lawyers habitually use it in the normal course of their work to force their services on society. In the process, the inordinate number of lawyers badly distorts the workings of the American economy in several different ways.

As Philip K. Howard wrote in *The Death of Common Sense,* we are drowning in a quagmire of laws, regulations, and litigation: "EPA alone has over 10,000 pages of regulations. Federal statutes and rules now total about 100 million words." Legislators and bureaucrats, lobbyists and litigators, many of them lawyers, continually create more and more "demand" for legal services. Some free market. Lawyers create their own demand, and then raise their cost even as they saturate the market with supply. Only wholesale legal reform will break up this oligopoly. Until then, please spare me the rhetoric about the "free market" for lawyers. CPR

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The Allen Pledge

The Economist in a Political Den of Iniquity

WILLIAM R. ALLEN

I DON'T WANT to be president. I am deeply and darkly suspicious of anyone who does want the job. But someone has to live in the White House, so I shall sacrifice my personal well-being and serve if elected.

Surely, I will be elected (by ballot write-ins), for I have a sure-fire platform: I shall not rest until the prices of all things *sold* are *maximized* and the prices of all things *bought* are *minimized* — and maximization here suggests positive infinity, and minimization should not stop short of negative infinity. (Any inherent inconsistencies in all this are to be ignored: We are talking hard-ball politics, not prissy logic.)

One of the innumerable prices subject to the Allen Pledge is wages. Both the Big Brother feds and the Little Brother state statesmen intend to raise legal minimum wages. The line of thought — if thought is what we here are dealing with — is straightforward: We want community income to be large and increasing; most income is received in wages; so we will make wages high and rising by legislative decree.

But the pro pols are pikers. They talk of raising the minimum from a little over $4 an hour to a lousy $5 or so. (Democrats at the federal level, abetted by over-acquiescent Republicans, have stipulated $5.15; in California, the goal is $5.75.) We won't make people wealthy that way, so the uninhibited Allen Pledge will prevail.

Being a novice politician, I am a bit self-conscious in this. Nearly all economists nearly all the time are reluctant to subvert the efficient and even-handed economic market with wasteful and willful political intervention and specification. When economists (a) have an I.Q., (b) are sober, and (c) try to be dispassionate analysts and useful policy advisors rather than devious promoters of partisan agendas, they reject such strategies as rent control, import tariffs, and minimum wages.

William R. Allen, professor of economics at UCLA, actually is much too bright, sober, and honest to be president.

A few weeks ago, five economic figureheads of the Clinton administration signed a statement in *The Wall Street Journal* favoring an increase in the minimum wage. It may actually be that the Treasury secretary, Commerce secretary, Labor secretary, and National Economic Advisor believe the government can "increase wages without costing jobs." But it is certain that Dr. Joseph E. Stiglitz, on leave from the economics department of Stanford University to serve as chairman of the president's Council of Economic Advisors, knows better, although he, too, signed the silly statement. We *know* he knows better. Not only is he — in contrast to his four co-signers — an accomplished formal theorist, he told us in his well-known 1993 textbook something of the true nature of minimum-wage laws. He properly noted then that pegging a wage above the market-clearing level will fail to clear the market: "There will be an excess supply of labor," and some "who might have been employed at the lower market equilibrium wage ... cannot find employment and are worse off."

Raising the minimum wage will help few, and it will hurt the downtrodden and disadvantaged. Stiglitz concluded in his textbook that, contrary to his *Journal* statement, "the minimum wage is not a good buy ... to deal with problems of poverty." Indeed, it is not. Reducing market options is a peculiar way to help those who already are severely handicapped in market competition.

With well-honed jungle instinct, the *Journal* skewered the governmental professor, brutally quoting Stiglitz against himself, wondering overtly, "if this were all true in 1993, why is it false in 1996?" The professor-turned-political-promoter replied as best he could in a letter to the editor. In essence, his answer was: If the minimum wage is low enough and the increase is *small* enough, not *much* harm will be done. In the Wonderland of Alice, good policy consists in actions which do not make the community "significantly" worse off.

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Let us avoid being utterly beastly. Dr. Stiglitz is in a situation which is difficult, at best. Indeed, by academic standards, it is quite impossible. Entering government service as a conspicuous spokesman of the administration inevitably calls for camouflaging one's professional competence and diluting one's personal integrity. The chairman of the Council is a member of a political team, obliged — so long as he can tolerate the arrangement — to parrot the party line. A team member is not publicly to be a major maverick. Few other team members are economists, and commonly the teammates have little competence in the niceties of economic analysis and little interest in and give little weight to the intricacies of good economic policy. Economic policy decisions are made by non-economists and are based mainly on non-economic criteria. The high level government economist is on the team for public show of purported professional propriety, with his actual activity largely confined to shoot-from-the-hip support of programs and procedures determined earlier by others and for which he may have only modest sympathy.

An eminent and broadly experienced economist has plaintively but understandably remarked that "the government is always going to be a disheartening game for the honest economist." When I move to Washington, D.C., next January, I will not be going as an economist, honest or otherwise. I shall go as the president, filling a job for which neither competence in economic analysis nor personal and professional integrity seems to be generally required or invariably rewarded. CPR

THE WORKING PRESS

Pablum from the Podium

Journalists Lament The Muzzle Their Own Hands Fashioned

TIM W. FERGUSON

After a couple of days at the GOP convention, the media began to realize it had been had and it didn't like that. But in what is now recognized to be a Super Bowl-like affair, with far more journalists than players and an abundance of corporate promotional activities on the side, what does it mean to be had? Isn't the press "had" by the National Football League at every one of its coronations? By the International Olympic Committee? At the Academy Awards? By NASA at every space launch? But for all the complaints of pablum from the podium, you can be confident that the press will show up in force for the next convention and the one after that and the one after that. Reason: the socializing is just too darn good.

And in the thumbsucking over how the media and the maestros of these affairs had locked themselves into a vicious cycle (in which coverage is limited so the speechmaking is stage-managed so the coverage is cut down further), did you read anybody wondering what's so surprising that provocative ideas are muzzled, given that people like Pat Buchanan who voice them are savaged for sowing discord?

One valuable service the press could provide in terms of context at a convention is a history lesson, but it doesn't seem able to do that. It endlessly re-cycles myth, such as the supposed destructiveness of the 1992 convention in Houston. But at least people ought to be able to remember that one for themselves. How about the collective kiss-off of the 1964 Republican session at the Cow Palace as the end of Barry Goldwater? It's probably true that Barry and his followers didn't exactly lay the foundation for victory there (more people were watching back then, so they had a chance to reach them), but it's simply wrong to think that everything went south when Nelson Rockefeller and the Eastern Establishment got the boot. Some of the pundits should refresh their recollections: LBJ was at 81 percent in the polls in *June* of that year. By November, the Republicans (with Ronald Reagan's help) had cut him down by 20 points. And Goldwater's percentage, let us not forget, was higher than George Bush's in 1992 (in

Tim W. Ferguson is California Political Review's *press critic.*

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a three-way race, granted). You can argue over whether a divided convention badly hurts a party, but at least we're entitled to know the facts and not just historical spin. Instead, most of the writers (exceptions: those in the increasingly good *Weekly Standard)* just give us the pop analysis.

⚜ ⚜ ⚜

In the afterglow of San Diego, some conservative commentators were letting their hopes get the better of them. Ken Grubbs of the *Orange County Register* dreamed in his Sunday Opinion section of various free-market radicals who could occupy Cabinet posts in a Dole/Kemp administration. There's nothing wrong with being intellectually playful, but let's be real. A Dole administration would be like a Bush White House, with occasional high moments when the stars were aligned right (and the proper advisers in place) but for the most part holding to a corporatist-establishment approach to policymaking. Let's not forget, this is the senator from Gallo Wine and Archer-Daniels-Midland. As for Kemp, to the degree that he still represents limited-government beliefs, his influence can hardly be expected to exceed that of Dan Quayle in the Bush years.

⚜ ⚜ ⚜

Then there was Debra Saunders of the *San Francisco Chronicle,* who does tough duty defending the GOP but found it necessary to join in the "this ain't Houston" chorus. She led off with a tear or two for a local favorite, the "touching" Mary Fisher (who of course *was* in Houston also). It's hard to say whether HIV-positive Fisher's contrived moments in San Diego with the little black AIDS girl were more excruciating than her moral lecture about "integrity" and funding (yes, ever greater funding) for America's poster disease. But the big tent has room for lots of acts, doesn't it?

⚜ ⚜ ⚜

Saunders, in one of her admirable defenses of CCRI, made the apt observation, in the wake of all the press cattiness about a dominance of white faces on the floor in San Diego, that if anything the journalistic contingent was even lillier — and decidedly more male.

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Chron columnists Matier and Ross, in a dispatch from the convention, showed some regional bias when, reviewing prospective GOP lights for governor and senator, they included everybody down to Sonny Bono but somehow missed Chris Cox. Of course, they noted Tom Campbell, who interestingly took a powder on San Diego. Conservatives might not take a shine to Campbell, but CCRI strategist Arnold Steinberg is effusive in praising him for his fealty to that cause.

⚜ ⚜ ⚜

George Skelton of the *Los Angeles Times* wrote in praise of Pete Wilson for his dedication to principle in raising an abortion stink at the convention. This had earned him the enmity of the Dole camp and a lot of bad press. But, Skelton argued, Wilson had to be a skunk at the GOP picnic in order to be true to his word to the delegation in 1992, when he took a pass on the issue but pledged that the anti-abortion rights language would be struck in 1996.

Let's put that issue aside for a moment. The fact is that Wilson is due kudos from the right for a number of steadfast stands over the last few years, most especially on the Civil Rights Initiative. He also has staffed his second-term administration with a cadre of Reaganites. Except for his abortion position and a few others that bother social conservatives, he has been of late the most right-governing chief executive of California in modern times — more so than George Deukmejian or even Ronald Reagan. It shouldn't be left to the liberal Skeltons to sing his praises occasionally.

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Oh, yes, the *Times.* Aficionados of the continuing squabbles of the owning Chandler family won't want to miss the profile of Otis Chandler in September's *Vanity Fair.* David Margolick (ex-*New York Times)* tracked down Otis — the man who steered the paper leftward in the 1960s and '70s — on his Oregon ranch and got him to unload on the conservatives in the clan. Of more significance to daily readers of the gray porpoise, the article includes no indication that current Times Mirror CEO Mark Willes is at odds with the Otis side.

⚜ ⚜ ⚜

The dust has yet to settle from the *San Francisco Examiner's* intensive coverage of Willie Brown's questionable doings and dealings in a series published shortly before he was elected Da Mayor. The *Examiner* has changed top editors since then, and it isn't clear how tough it will continue to be on Willie — or even whether the *Examiner* will survive as an entity given the financial pressures on "second" urban newspapers. One thing seems certain: if the *San Francisco Chronicle* is to be the sole survivor among the dailies, Brown can count on a steady supply of hugs and kisses. The *Chron* has never wanted to antagonize Willie. A couple of feisty weeklies would still be around to give him trouble, but the dailies set the tone for local broadcast news. CPR

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PHILLIP E. JOHNSON

Left Behind

Senator Dianne Feinstein told the Democrats' National Convention that parents should teach their children "the difference between right and wrong." Good idea, but the senator neglected to add that following her advice would mean running head-on into the moral and logical relativism that dominates, and thoroughly confuses, our age. Fruitful moral instruction requires a love of truth strong enough to overcome any impulse to bow to fashionable moral incoherence and, additionally, to persevere through the hard work of serious thinking about morality. It is a difficult, although rewarding, subject, not for the mentally or morally lethargic. This space is devoted to those willing to assume the task.

TODD GITLIN begins his book* on our current culture war by recounting the absurd Oakland school textbook battle of 1992. He presents this spectacle as a paradigmatic example of the retreat of the left from universalism and its descent into tribalist irrationalism. The State Board of Education had approved for local adoption a new series of social science textbooks for kindergarten through 8th grade. The books were written and edited for Houghton Mifflin by a group of consultants headed by UCLA history professor Gary Nash, a leftist of the same stripe as Todd Gitlin. The series was on the whole proudly multiculturalist, placing great emphasis on the positive contributions of indigenous people and minority races and the crimes that were committed against them.

No one would have been surprised if the textbooks had been denounced by Rush Limbaugh and Lynne Cheney, but on this occasion the cultural right was silent. When the minority-dominated Oakland School Board considered purchasing the books, however, the public hearing was packed with racial demagogues of the left, who searched out isolated passages that could be interpreted as offensive. The most aggressive attacker was a professor of ethnic studies from San Francisco State University. She appeared with a platoon of her students, who probably received academic credit for this laboratory experiment in agitprop. Gitlin quotes another long-time white leftist as remarking that the attackers "would have spoken in the same vein if the authors [of the textbooks] had been George Wallace, Ross Barnett, and Bull Connor." Why not? George Wallace and Gary Nash are both white.

In the end, Oakland went into the next school year with no social science textbooks at all. The tragedy of this racialist symbol-mongering, according to Gitlin, was that it occurred while the public schools were grossly underfinanced and amid "a stupefying degree of inequality in American society and, in particular, among African Americans." Instead of organizing against "rock-bottom inequalities and racial discrimination," however, the activists of identity politics chose to fight "real and imagined symbols of insult."

GITLIN, A Berkeley sociologist who recently moved to New York University, was a founding member of what used to be called the "New Left." This was the energetic student movement of the late 1960s that opposed the Vietnam war and racism, while glorifying a personal hedonism based on "sex, drugs, and rock-and-roll." Critics of the Sixties left (it can hardly be called "new" today) see it as a self-indulgent and self-righteous Children's Crusade that began with some correct insights — Martin Luther King was right on civil rights and Lyndon Johnson was wrong on Vietnam — but then went haywire about everything else. The main theoretical contribution of the Sixties left was "participatory democracy," a recipe for anarchy that destroyed every organization that put it into practice. Its continuing legacy is the suffocating piety known as "political correctness."

Unrepentant veterans like Gitlin admit that something went terriby wrong, but they maintain that the Sixties left was founded upon a noble vision of universal equality which they would love to recapture. That seems impossible, however, because critics and nostalgic veterans alike agree that, for better or worse, the left today is hopelessly frag-

* The Twilight of Common Dreams: Why America is Wracked by Culture Wars, *by Todd Gitlin, Metropolitan Books/Henry Holt, 294 pp., $25.*

Phillip E. Johnson is professor of Law at the University of California, Berkeley. *This article first appeared in* Books and Culture, *September/October 1996.*

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mented. Gitlin goes so far as to say that "Today it is the Right that speaks a language of commonalities. Its rhetoric of global markets and universal freedoms has something of the old universalist ring. To be on the Left, meanwhile, is to doubt that one can speak of humanity at all."

IN PLACE of a unified humanity, today's left celebrates what sociologists call an "identity politics" of discrete groups pursuing their own goals. The principal groups are racial minorities, feminists, and gays, with some others like environmentalists and disabled people as associate members. The chant on the campuses excoriates not capitalism but "racism, sexism, and homophobia." The class enemy is no longer the millionaire or the militarist, but the infamous straight white male, including even straight white male sociology professors who plead in extenuation their long record of marching in support of left causes. Understandably, Todd Gitlin is not comfortable with a left whose idea of fighting racism and sexism is to typecast people like himself as oppressors. If, as Gitlin charges, the left has abandoned the universalist ideal of socialism and substituted a self-defeating tribalism that cedes the high moral ground to the market-worshippers, what is the remedy? Gitlin knows that the activists of identity politics will not change their course in response to the pleadings, however eloquent, of a straight white male academic who feels left out. Rebuilding after a political catastrophe requires actions, probably drastic ones. Gitlin consistently refuses to follow through on the obvious implications of his own analysis, however, probably because by doing so he would instantly reclassify himself as a neo-conservative. I will point out just two examples.

First, should changes be made in government policies that actively encourage identity politics? Gitlin reports that the census employs a system of racial categorization "that is rigid to a degree that astounds (and horrifies) many people outside the United States, especially in countries like Canada, Mexico, and France, which have banned the collecting of racial statistics." New racial categories are added from time to time "as a result of political pressure from groups seeking to maximize their representation in public life." The categories affirm the basis for identity politics and provide "a tactic for garnering resources." Remember that professor of ethnic studies and her student shock troops.

In short, identity politics flourishes in part because government policies encourage and subsidize it. Gitlin's narrative clearly implies that those foreigners are right to be horrified. Should we, then, do as the foreigners do, and stop classifying people on the basis of rigid racial categories? Gitlin must be familiar with current proposals to allow people to classify themselves on the census as "multicultural," but he avoids the subject. He does not say whether the legal system should attempt to return to Martin Luther King's principle — now quoted mainly by conservatives — that people should be judged not by their race but by the content of their character. Liberals usually defend distributing benefits by race as a temporary measure, to be abandoned when racism has been sufficiently reduced, but that is senseless if the racial entitlements are worsening the very conditions they are supposed to be curing. I surmise that, while he cannot endorse moving towards a color-blind legal system and still call himself a leftist, Gitlin would not be displeased if the right were to take that step and incur the blame.

Second, should disillusioned leftists reconsider their hostility to traditional religion, and even see religion as a promising basis for a universalist politics of human equality? Gitlin has a nostalgic chapter on Marxism, which he correctly describes as "a theology without God." He refers to theistic religion only dismissively, however, implying the usual left prejudice that a serious interest in God is inherently reactionary. Gitlin also dismisses out of hand the theory that one important cause of social pathology is the breakdown of the traditional family, a circumstance that is linked to the abandonment of religious morality.

The allure of Marxism was that it bridged the fact-value distinction, painting a total picture of reality in which a passionate social utopianism seemed to be backed by a hard-headed materialist science. Marxism is now moribund not only because of its spectacular failures in practice, but because its theory does not address the issues that preoccupy the contemporary left. Who goes to Marx for guidance on gay marriage or the evils of Eurocentrism? The doctrine that economics is the base and culture the superstructure, like the doctrine that justice should be color-blind, is more often found on *The Wall Street Journal* editorial page than in the radical journals. Even leftist economists appreciate the utility of free markets for creating wealth, and Gitlin concedes that the international nature of the economy makes it impossible for a national government to redistribute wealth drastically without provoking a disastrous flight of capital. The only presidential candidate in 1996 who did not support market internationalism was Pat Buchanan.

WHAT THE Left plainly needs is a new theology, with or without God. Gitlin makes clear what the elements of such a theology must be. It must provide a universal vision that inspires people to regard themselves as fundamentally united, despite their differing social circumstances and cultural experiences. It must provide a basis for an objective rationality of both fact and value, refuting the current left doctrine that "objectivity is only another word for white male subjectivity." It must reject the market-oriented notion that individual gratification is the purpose of life, by providing a higher purpose. It must provide a reason for the economic winners to be generous and compassionate, and for the losers to strive to become as productive as they are able.

Where is such a theology to be found? I could offer a suggestion, but I don't think Todd Gitlin wants to hear it. CPR

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Stretch Run To November

By Christopher Shelton

Party Morale – Translated into Voting Booth Turn out – Could Decide Between an Electoral Nightmare and Sweet Dreams For The GOP

The recurring California Republican nightmare question that is keeping GOP pundits awake nights: is 1996 turning into a replay of the 1992 general election? November of 1992 saw the most unfortunate combination of a state openly deserted by the Bush/Quayle campaign, morale (and hence turn out) among the GOP rank and file at rock bottom, and a Democrat Party and electorate energized almost to the point of triumphalism (if such a religious allusion isn't completely inappropriate to use in the same sentence as California Democrats). The resulting landslide cost the GOP dearly in congressional and legislative contests.

Republicans keep saying it can't happen again with all the fervor of a group of kids who *know* they saw ghosts in the cemetery last Halloween and would just as soon not have to take that route home again. Democrats know it is a consummation devoutly to be wished, and point to stray omens here and there as harbingers every bit as reliable as the swallows in Capistrano indicating the dawn of the feast of St. Joseph.

Christopher Shelton is the pseudonym of a long-time observer of California politics.

Predicting the outcome of elections is perilous duty even a week before the voting, let alone more than a month in advance. Nonetheless, the dictates of editorial deadlines make such prognostication our task, and there are some general outlines that can be seen through the political mists. The good news for Republicans is that a debacle of 1992 proportions is unlikely. The bad news is that just about all of the easy pickin's were nabbed by the GOP in 1994, thereby severely limiting their upside potential this year. This is not to say of course that disaster could not still strike and make '96 a '92 repeat. The Clinton campaign starts with a solid lead of 10 to 12 percent. That will be tough to overcome in the best of circumstances. Any more Dole gaffes such as his nicotine comments could send the presidential race out of reach in California — with all the negative consequences that holds for GOP morale and turn out. However, if statewide turn out is anywhere near historical norms (5 to 10 percent more registered Republicans voting than Democrats), then the political map of California keeps the Dole/Kemp ticket in the hunt for our electoral votes.

The "political map" is simply the reality that Clin-

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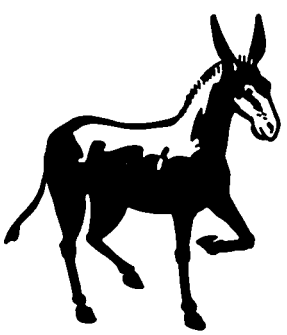
ton will — and must — carry the San Francisco Bay Area and Los Angeles County by very large margins. Conversely, Dole/Kemp will — and must — carry non-L.A. Southern California and the Sacramento-to-Oregon counties by equally lopsided majorities. That leaves the Central Valley from Sacramento south to Bakersfield as the key battleground. All other things behaving as usual then, whoever carries the Central Valley will carry California. Dole/Kemp are still realistically in that hunt, and they have at least initially made an impressive commitment of money and manpower to the Golden State. That bodes well for the rest of the GOP ticket.

☆ ☆ ☆ Congress ☆ ☆ ☆

CALIFORNIA'S 52-MEMBER congressional delegation is currently divided 26 Democrats to 26 Republicans. Three GOP freshmen incumbents are high on Democrat target lists: Frank Riggs of the far North Coast; Andrea Seastrand of Santa Barbara and San Luis Obispo, and Brian Bilbray of San Diego. Additionally, long-time Republican stalwart Carlos Moorehead is retiring, and demographic changes now make his Glendale/Pasadena-based district winnable for Democrats.

The fact that the only three vulnerable Republican incumbents represent coastal districts is perhaps a topic for another article. Of the three, Mrs. Seastrand (one of the *truly* nice people in elected office) had the closest call in 1994. She vows not to repeat last campaign's mistake of neglecting to talk about her opponent's very liberal past record. This is a "lean GOP" district that tends to like homespun candidates like Seastrand, so she faces the paradox that if she wins this time it will probably be by another close margin, but that if she does manage to hang on she will probably be safe for the foreseeable future.

Bilbray has recently slipped off most "endangered" lists because of weakness in his opponent. Riggs, on the other hand, represents a district that leans Democrat — a lot. He won the seat before because of his hard work and people skills. If he wins again it will be because of the same factors. His main danger is a huge Democrat turn out (which, in that part of California, can happen if the marijuana harvest ends early). And if he does win again, he will perpetually be on the Democrat target list, which Riggs says is fine with him. This is a man who enjoys a challenge.



The Moorehead seat in L.A. County is a different animal, having turned from very white and Republican to very mottled and competitive. The GOP has never had to mount a serious defense of this territory — likewise the Democrats have never before had a serious chance for gains here. Moorehead's retirement, combined with competitive legislative seats in the same area (see below), make this part of Los Angeles not only a battleground but also something of a bellwether. If the Democrats gain seats here, they will probably do quite well statewide. Conversely, should the Republicans be able to maintain all their current seats here, they will probably do quite well both congressionally and legislatively throughout the state.

On the other hand, Republicans feel they have a real shot at four Democrat seats: those held by Tony Beilenson (who is retiring), George Brown, Jane Harman, and Calvin Dooley. This observer believes that only the Brown seat is truly winnable for the GOP, with Harman the next most likely casualty. And the odds right now are that the Democrats — if they beat any GOP incumbents — will defeat only one of those. Hence the outlook is for little change in the congressional delegation.

☆ ☆ ☆ Legislature ☆ ☆ ☆

THE LINEUP in the state Senate is currently 22 D, 16 R, and 2 I, which is deceiving since the two "Independents" are usually reliable Democrat votes. (Okay, Quentin Kopp fans, he *is* more independent than the other "I", Lucy Killea.) A truly accurate count of Senate membership would be 23 D, 16 R, and 1 I (Quentin "Depends who I'm cranky at this morning" Kopp).

Democrats are making noises about picking up the L.A. County district Bob Beverly is vacating. They are probably blowing smoke, although if 1992 conditions were to reappear this is a district they could win. It probably stays in the Republican column in any "normal" climate.

It is the seat of retiring GOP veteran Newt Russell that is the "big casino" for both parties. This district covers virtually the same Glendale/Pasadena-centered geography as Carlos Moorehead's congressional district. It has, therefore, *ipso facto,* undergone the same type of demographic transformation as the congres-

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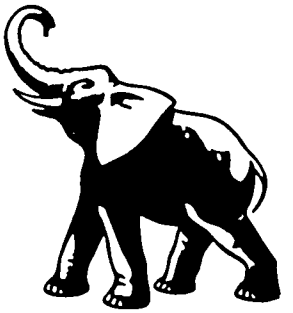

sional turf. Both districts have a registration that sits at about 40 percent Republican to 44 percent Democrat. These are numbers that don't normally scare Republicans, but the Democrats are putting on the full court press. These registration numbers reflect a reliably Democrat and growing minority population as well as some "weak loyalty" wealthy Republicans vulnerable to Democrat appeals on environmental and other social issues. In the state Senate race here, conservative Assemblywoman Paula Boland carries the GOP standard facing very liberal, Hollywood-connected attorney Adam Schiff. This will likely be the most expensive Senate election in the state, and you can only pity the poor mail carriers in this district during October. Yet because of circumstances elsewhere, the outcome of this election will likely determine whether or not the Republicans make any net gains in the Senate.

★ ★ ★ ★ ★ ★ ★ ★

Setencich is running as a write-in with the full support of both the Democrat Party *and* nominally Republican Congressman Bill Thomas.

The reason is the nature of the other three competitive Senate races. Independent (though reliable Democrat vote) Lucy Killea is vacating her San Diego seat. While this is a district that the GOP could win, the Democrats have nominated liberal Assemblywoman Dede Alpert to oppose a Pete Wilson clone named Joe Dolphin (no doubt he'd be a real "flipper-flopper" if elected!). And a candidate who believes in something will almost always defeat a candidate who believes in nothing — hence this is a likely Democrat retention. If Dolphin follows his mentor's lead and gets extra tough on the illegal immigration issue he could stage an upset, but for now this probably stays in the Donkey column.

Then there is the Contra Costa County seat being vacated by long-time Democrat Dan Boatwright. Republican Assemblyman Dick Rainey is the heavy favorite to capture this seat for the GOP. Also in the same general vicinity, the South Bay district currently held by Democrat Henry Mello is being strongly contested by moderate Republican Assemblyman Bruce McPherson. The Democrats also have a strong candidate in former Assemblyman Rusty Areias. This will be a very close race between two quality candidates.

Hence the importance of the Newt Russell seat to both parties. The Killea, Mello, and Boatwright districts are all currently held by Democrats. Russell's is the only GOP seat in real danger. And with Republican Rainey heavily favored to win the Boatwright seat, Republican retention of the Russell district insures a net GOP gain of at least 1. Even more importantly, it raises the stakes enormously in the Killea and Mello districts. A Dem loss in either of those would mean a net loss of 2 Democrat seats, would leave the Senate at 21 D, 18 R, 1 I (Kopp), and would probably be the end of Bill Lockyer's leadership in the Senate.

The dynamics of the Assembly races are totally different, of course, since there the GOP is defending a current Republican majority. Frankly, few prospects for change exist in the lower house. This is especially where the GOP won most of the easy victories of 1994. The outcome in a couple of districts, however, should indicate the statewide fortunes of both parties. One is the Fresno-area seat of former basketball player, former Republican, and former Speaker Brian Setencich. Rightfully defeated by an angry GOP electorate in the primary, he is now running as a write-in against Republican nominee Robert M. Prenter Jr. with the full support of both the Democrat Party *and* nominally Republican Congressman Bill Thomas. Thomas's hatred of GOP conservatives is so great he has finally dropped the mask and is openly doing what he has done surreptitiously many times before: support the Democrat apparatus against conservatives. It probably won't work. Setencich can't win this seat unless he gets a massive infusion of Democrat dollars, which is unlikely given the other demands for these dollars around the state. Setencich would receive a boost if he could find a friendly judge willing to allow voters to apply a "peel off" sticker reading "Setencich" to the ballot instead of actually having to write in his hard-to-spell name. So far there have been no judicial takers. This is a probable GOP retention.

The other exceptionally hot Assembly battleground is, again, the Moorehead and Russell Glendale/Pasadena area. Two currently GOP Assembly seats are in danger here. Incumbent Bill Hoge faces a strong

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Democrat challenge in Pasadena. Hoge is a conservative in the H.L. Richardson "in your face" tradition. This, combined with a constant drumbeat of negative stories from his local media, put this district at risk of falling to a heavily-financed Democrat effort.

The Assembly district centered in Glendale is currently held by Republican Jim Rogan, the GOP nominee for the Moorehead congressional seat. The 1991 re-districting stretched this formerly solid conservative seat into the Hollywood and Echo Park portions of the city of Los Angeles. Heavily Democrat and heavily voting, these additions combine with a growing Latino population in the Glendale portion to make the district exceptionally vulnerable. The Republicans had a factious primary in which conservative division allowed the victory of a candidate who, if not a Pete Wilson certified moderate, is still a *far* cry from the rock-ribbed conservative leadership this district was used to receiving from Rogan, Pat Nolan, and Mike Antonovich. The GOP nominee, Peter Geranios, has worked hard with apparent success to mend fences — a must-win district for both parties.

There are a half-dozen other competitive Assembly races around the state, but if the GOP retains the Hoge and Geranios districts, and replaces Setencich with Robert Prenter, the odds are strong that Speaker Pringle will be sitting snugly atop a Republican majority in the Assembly numbering 42 or 43 seats. On the other hand, Democrat victories in the above mentioned races would probably exactly reverse those numbers, giving them a 42 or 43 seat majority. That being the case, the most likely outcome for California's congressional and legislative elections is that millions of dollars will be spent and not a whole lot will change. A Dole/Kemp collapse would of course change those dynamics. But now, it appears that if the national ticket stays competitive, the state GOP could have reason to smile the morning after the election.

☆ ☆ ☆ Good Bye Pete ☆ ☆ ☆

AN INTERESTED observer of all these battles will be P. Barlow Wilson. However, Wilson's stunningly inept performance in the weeks leading up to the Republican National Convention has finally made him the irrelevant man. Two months ago, Wilson stood to be a re-invigorated GOP powerhouse if the Republicans made legislative gains. Whether Dole/Kemp won or lost, Wilson appeared to be well-positioned to run in 2000 at the end of this current term, or wait for 2004 while returning to the U.S. Senate.

His incredibly ham-handed attempts to bash Dole with the abortion issue — keeping it alive with regular Dole-goading finterviews and network TV appearances long, *long* after the issue had been settled — eviscerated support for Wilson across all GOP spectrums. Dole is furious. Moderate Republicans who favor legal abortion but have other issues of importance are embarrassed. Conservatives are rejoicing that Wilson has finally — with his own actions — proven himself to be exactly what they've said he was for years. Republican leaders of all stripes wonder at the governor's artless handling of the matter. George Gorton must have been back in Russia, for the Wilson political operation was clearly without a leader — and without a clue — as the convention approached.

Wilson's fall from grace was inadvertently captured in a picture of Jack Kemp addressing the California delegation. Kemp, working himself up into the usual froth, stopped in mid-speech to take off his coat. As he turned from the podium, the first person he saw was Wilson. Kemp handed over — and Wilson dutifully accepted — his coat. And there was a brash, energetic Jack Kemp speaking as a grim and dour Wilson literally held his coat.

Wilson can now probably be ruled out as a contender for 2000 if Dole/Kemp lose. He certainly still has a good shot at returning to the Senate, but veteran Wilson watchers wonder if he'd be happy there as a back bencher to the solidly-entrenched conservative leadership. The true reasons for Wilson's self-destruction as a national GOP force have pros scratching their heads — and California conservatives reaching for the champagne. CPR

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The California Dream

by Terry Eastland

Continued from CPR's July/August issue. Excerpts from Part I:

An effort to recover the original intent of the Civil Rights Act of 1964, after which it is named, the California Civil Rights Initiative (CCRI) would amend the state constitution on these terms: "The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting." CCRI is the creation of two professors new to grassroots political activism — Tom Wood, executive director of the California Association of Scholars and a former philosophy professor, and Glynn Custred, a professor of anthropology at California State University, Hayward.

Under the California Constitution, two-thirds of both houses of the Legislature may propose an amendment, and in August 1994, Republican lawmakers in the state Assembly pushed an early version of CCRI. But with Democrats in control of both houses, and the proposed amendment drawing vigorous opposition from civil rights leaders and public employee unions, it died after a three-hour hearing. Fortunately, the state constitution also provides a process by which the people themselves may propose an amendment by referendum — the strategy Wood and Custred finally decided to pursue. "The only way," says Custred, "was to take it to the people."

Part II

The prospect of California's voting on CCRI in 1996 caught the attention of Republican presidential aspirants, including Governor Wilson, who endorsed CCRI early in 1995 and then moved on several fronts to end affirmative action. To begin with, Wilson issued an executive order eliminating all state preferential treatment requirements lacking authorization in state or federal law. In other words, he ended discretionary employment preferences, such as those adopted by the water resources and the forestry and fire protection departments under which a certain percentage of jobs were reserved for women and minorities only. The executive order also sought to conform state employment practices to the Supreme Court's *Croson* decision by requiring that statutorily required hiring goals be based on the percentages of minorities in the qualified labor pool, not the percentages in the work force generally. And the order eliminated one of the subtle pressures of the affirmative action culture — a requirement that a hiring supervisor explain in writing why a non-affirmative action candidate was hired if an "under-represented" candidate was in the hiring pool.

Wilson also filed suit challenging the constitutionality of five state laws that encourage or require preferential treatment, all of which concern employment and contracting. When measured against the Supreme Court's 1989 *Croson* decision, these statutes had obvious infirmities. The laws requiring set-asides for minorities in contracting, for example, contained no findings of actual discrimination, as *Croson* demands. What is politically notable is that the Legislature made little effort to bring these wayward statutes into con-

Terry Eastland is editor of Forbes MediaCritic and a fellow at the Ethics and Public Policy Center in Washington, D.C. This article is excerpted from Eastland's book Ending Affirmative Action, The Case for Colorblind Justice, Basic Books, 1996, 229 pages, $23, cloth.

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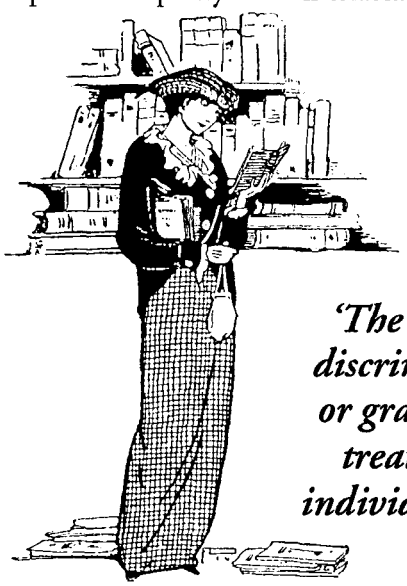
formity with *Croson,* nor did enforcement officials aware of *Croson* have much luck with their reform efforts. The director of affirmative action for the state's civil service system had recommended in 1993 that the basis for establishing hiring goals be changed from the percentage of minorities in the adult working population to the percentage with the requisite job qualifications. The proposed change wasn't made, however, because leaders of groups representing minorities and women objected that it would dilute affirmative action efforts. California, of course, isn't the only state resisting *Croson,* but Wilson's lawsuit suggests the kind of effort it might take to prod a state to follow the Court's ruling.

Finally, Wilson used his position as head of the Board of Regents of the University of California to persuade majorities to end the use of preferences in admissions and faculty and staff hiring. Under the previous policy, in force since the 1970s, the university had made race such a "plus" in admissions as to effectively overturn the holding in the landmark *Bakke* case. As a result, Asians as well as whites were bearing the brunt of the system's discriminatory admissions policies. For example, the mean SAT score for whites and Asians admitted to the University of California at Berkeley was more than 200 points higher than those for Hispanics and blacks. And, according to a Pacific Research Institute study of admissions to the five University of California medical schools, minorities from nondisadvantaged backgrounds were being admitted over better qualified, disadvantaged Asians and whites.

CCRI would make permanent the new, no-preference policy adopted by the University of California regents. A new board of regents thus would not be able to revive preferences in admissions (or hiring) unless the California Constitution first were changed. CCRI would similarly lock into place the no-preference policy Wilson established through executive order. But CCRI would reach further than Wilson could, outlawing not only every preference required or encouraged by a state statute or regulation in the areas of employment, education, and contracting, but all those sponsored by cities, counties, and other political subdivisions within the state.



'The state shall not discriminate against, or grant preferential treatment to, any individual or group...'

A heated debate over CCRI erupted even before the drive to put it on the ballot began. The less incendiary opponents of CCRI have contended that the initiative is an extreme solution to problems created by affirmative action that instead should be dealt with on a case-by-case basis. Given the Legislature's refusal to reconsider affirmative action programs, and the attachment of so many local governments to preferences, there would appear little prospect for a case-by-case reconsideration of affirmative action, at least not for one that would bring most preferences to an end. Even so, these opponents of the initiative argue that the California Constitution should not flatly deny state and local governments the discretion to take race or sex into account, since unusual circumstances may arise in which preferences are needed.

This is a common argument against colorblind law, and the case often cited in the debate in California (as elsewhere) is that of a police department serving a racially mixed community: to perform effectively, it should not be prohibited from using preferences to hire and promote minority officers if race-neutral selection procedures fail to produce enough of them. The "operational needs" rationale, however, is a dangerous one. In 1993, a federal appeals court rebuked the chief of police in Charlotte, North Carolina, for relying on the operational-needs argument in promoting black officers less qualified than their white counterparts, and thus discriminating against the latter. (There were 74 candidates for 21 positions; when race-neutral selection procedures yielded one black among the top 21, the chief of police promoted three black officers ranking No. 29, No. 62, and No. 74, respectively.) Aware that segregationists in the 1950s and 1960s had cited "operational needs" to justify confining blacks to certain jobs, the court said "we fear others could use this same rationale for a much less benign purpose. Such a result would promote racial polarization and the stereotypical view that only members of the same race can police themselves."

As the long fight for colorblind law shows, governments have proved quite capable of coming up with rationales for classifying individuals on the basis of race. The question that CCRI ultimately poses is whether any of these rationales is strong enough to warrant preferential treatment — discrimination, by any other name. CCRI would outlaw preferences regardless of their rationales. It would in effect adopt Justice Antonin Scalia's formulation of the issue in his *Adarand* opinion: that "government can never have a 'compelling interest' in discriminating on the basis of race in order to 'make up' for past racial discrimination in the opposite direction." CPR

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Responses to *CPR's* July/August cover articles and the state High Court's Decision to Reconsider *American Academy of Pediatrics v. Lungren*

The Court's War on the Family

The following commentaries respond to California Political Review's July/August twin-bill: "The Court's War on the Family," which featured Mark S. Pulliam's "Snatching Defeat from the Jaws of Victory" and an exclusive CPR interview with California Supreme Court Chief Justice Ronald M. George. Two Supreme Court cases figure prominently in several responses: American Academy of Pediatrics v. Lungren, *involving California's law requiring a parent's or a judge's consent before an abortion can be performed on a minor (upheld as constitutional in April but, following a court membership change, scheduled in May for re-hearing) and* Committee to Defend Reproductive Rights v. Myers, *a 1981 Bird Court decision forcing California to pay for abortions. (Hereafter, these cases are referred to as* Lungren *and* Myers.)

Dr. L.P. Arnn

President, The Claremont Institute

Mark Pulliam has a point. In America, the practice of abortion enjoys a protection so perfect as to make it almost unrestrained. It enjoys a legal and political prestige among our elites that approaches piety. It reaches its worst in the *Lungren* case. Pulliam defends the "conventional" family, but the relation of men and women in reproduction and nurturing is not conventional, it is natural. It is as much the way of them to procreate in that way as it is of any species. Plainly, children are generally better raised by those who conceive them than by others who do not know their names. But if parents are to raise children, they must have the authority to do the job. Taking that authority violates their liberty and uproots the institution upon which children depend.

Today we try to read our Constitution as if it raises up "rights" that would interfere with this authority. Such "rights" do not come from the Constitution. No framer — hardly any American of the time or for 150 years after it — would have supported them. They wrote the Constitution to implement a higher law, "the laws of nature and of nature's God." They saw those laws as the source of our liberty and the morality under which alone it can be practiced and sustained. These new "rights" would destroy both. The chief justice refers to old and new precedents, calling it "conservative" to follow either set of them. He must face the fact that they are contradictory. He should ponder a little statement by Lincoln: "there is no such thing as a right to do wrong." Perhaps it will help him distinguish a right from an assertion of will.

Gary L. Bauer

President, The Family Research Council

The possible reversal of *Lungren*, as Mark Pulliam argues, involves the right of parents to direct the upbringing of their children, not simply the invokation of a "privacy" right for minor children. Historically, laws regulating children's activities have been protective. For example, adults may not enter into binding contracts with unemancipated minors. This is because a child should not be legally bound to fulfill a contract when the parties are so obviously unequal in bargaining power and in capacity to judge interests. Adults are also prohibited from selling alcohol, tobacco, and pornography to children.

It could be argued by "children's rights" advocates that such laws limit children's ability to *choose* to make such pur-

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chases. Of course children have rights, but parents traditionally have been the custodians of these rights, at least until those children reach adulthood. This is a sound presumption based on the more limited capacity of children to make responsible choices. The movement to grant minors full access to the full range of choices available to adults inevitably leads to the liberation of the child from his or her parents. In this view, the parent is the *obstacle* to the free exercise of the child's rights and the state is the arbiter of family relations. Tragically, this threatens to destroy a child's most precious right: the right to a child-like dependence upon the guidance of loving parents.

Pulliam is also right to characterize the *Lungren* dissent as a challenge of the right of parents to act *as parents.* It's no secret that some influential people in our country think "it takes a village to raise a child." When the "village" shows up on our doorsteps, armed with legal briefs and court orders, those of us who are parents will find it is too late to claim our natural and historic rights to raise our families. We need to be alert *now.*

This movement threatens a child's most precious right: the right to a child-like dependence upon the guidance of loving parents.

— Gary L. Bauer

Hon. Rob Hurtt

Senate Republican Leader

Reversing ground on parental consent will signal a direct assault upon parental rights. Even though parental consent is required to treat a minor for a headache, the court wants to second guess itself on whether or not the Legislature may require parental consent for abortions. If the court strikes down parental consent, it will be a sad defeat for parents who already must contend against an intrusive "village" of arrogant government lovers who want to raise our children. Unless a minor is being abused or endangered, that child belongs to its parents, not the state. It's hard enough to fight off the Legislature's "villagers" who want to raise our children; we don't need the state Supreme Court championing their cause.

Gideon Kanner

Professor Emeritus, Loyola Law School

Lawyers know that, depending on the result a court wants to reach, a landmark, famous decision can be dismissed as the dead hand of the past or hailed as the law and it's always been the law and who are you, you silly little upstart, to challenge it. The courts, by degrees, have slipped into an overt governance mode, not an adjudicative mode. They always govern to some extent, but it's a matter of degree. Now they want to be movers and shakers and policy makers. Of course they deny it, because if you are a policy maker you have to be accountable.

Pulliam's critique is that we had far-out liberal judges and replaced them with ostensibly conservative judges but we still get anti-business, pro-government decisions. I disagree: this isn't liberal versus conservative; it's libertarian versus statist, and these guys are statists. It started when Jerry Brown appointed public defenders to the bench. Then Deukmejian appointed prosecutors and other government lawyers. That was his idea of balancing. Wilson exacerbated the trend of appointing prosecutors and civil government lawyers. I don't mean these judges consciously twist the law to serve the government. But if you spend your formative years doing particular work and being good at it, which means you like it typically, you can't be expected suddenly to drop all that and take a much more detached position. Some can do it, but they're rare gems. Under the old system, some appointments were plaintiffs lawyers, some defense lawyers, some criminal lawyers — it was a mix. Now you get a bunch of bureaucrat lawyers.

Gary Kreep

Executive Director, U.S. Justice Foundation

While I respect the requirement that the Chief Justice not discuss pending cases, I am somewhat puzzled about his declination to discuss already decided cases. That avoids criticism of those cases, but it does nothing to help the public's perception of the Court. The public believes judges promote their own social or political agenda through their decisions. The Chief Justice's comments, unfortunately, do not dispel that perception and, in fact, may aggravate the situation due to his declination to discuss previous decisions. Also, he hints that he believes *Myers* should be overturned, yet he defends the decision to rehear *Lungren.* In other words, Chief Justice George appears to be saying that California taxpayers should not be paying the bill for abortions for indigents, yet the court is going to invalidate its parental notification law. If the public is as confused as I am by these statements, then there is little wonder the judicial system is viewed as it is.

Hon. Alister McAlister

California Assembly, 1971-86

Mark Pulliam's analysis of *Lungren* stimulates further thoughts on the "independent state grounds" doctrine sometimes followed by the California Supreme Court. Whether applied

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by liberal or conservative courts, the worst aspect of this deceptively labelled doctrine is that it invariably results in legal enforcement of the lowest common denominator — and invariably a left-leaning twist — in every area of law where a constitutional right can plausibly be asserted. This street runs two ways for liberals but only one way for conservatives. If the U.S. Supreme Court renders a liberal interpretation of a federal constitutional provision, the state courts can never circumvent it by a more conservative interpretation of a similar state constitutional guarantee since states cannot deprive anyone of a federal constitutional right. But since the federal Constitution only establishes minimum rights which states, through judicial decisions, can exceed, conservative federal decisions can be and often are undermined by liberal state courts. Tails, they win; heads, we lose. But even conservative judges are reluctant to relinquish the awesome power conferred on them by independent state grounds.

For example, in *Raven v. Deukmejian,* while upholding most of constitutional amendment Proposition 115 (1990), our state Court unanimously held that it violated the state Constitution's "revision" clause by proposing that in criminal cases most constitutional rights of a criminal defendant "shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by" the U.S. Constitution. The Court held this was such a "devastating" change that it amounted to a "qualitative revision" of the California Constitution *which could not be adopted by the People via the initiative process but could only come about through a constitutional "revision"* — a ruling contrary to the Court's approval, despite similar challenges, of other major constitutional changes such as Proposition 13 and Proposition 8, which even contained a provision similar to 115 abolishing the independent state grounds doctrine as to exclusion of evidence in criminal trials. The Court did not even mention the 1979 amendment to the state Constitution, article I, § 7, which abolished independent state grounds as to school busing.

The moral? (1) Pragmatically, the law is what judges say it is. (2) High courts have more impact on many issues than legislators and chief executives. (3) Hence the *selection* of high court judges is one of the most crucial functions of government. (4) Theoretically, the judge *retention* process could be even more important, but sadly few citizens know the judges' records.

William Rusher

Publisher, National Review, 1957-1990

Drive-by shooting suspects tell police they don't do it for money or for revenge but because it just seems like a good idea at the time. Those kids never had discipline and morality and order internalized into them as children. In the old days, before this generation, this internalization came from the family, the churches, and the schools. But the churches that still try to speak about morality are under attack for having the nerve to do it. The public schools have been told that it is absolutely impermissible even to have a non-denominational prayer — we have default atheism in our schools.

And then the family. This at least people thought they could depend on for what we call the transmission of culture. But the family is under heavy attack. In many cases, it simply disappears. The glorious Aid to Families with Dependent Children and similar nonsense has all but destroyed the black family and many white families. The move to overthrow California's parental consent law is another attempt to drive a wedge between parents and their children.

Let the light shine on this matter; let the decision be taken in public.

Hon. Bruce Thompson

Assistant Republican Majority Leader

Your "View From the Bench" interview with Chief Justice Ronald George was both illuminating and discouraging. The tone of the Chief Justice's remarks reveals an elitist sentiment that often ignores the moral underpinnings of our free society. In *Lungren* the Court must choose between the so-called "privacy rights" of irresponsible teenagers and the right of parents to assist their children in making a decision of life-altering significance.

In what seems to be an effort to pre-empt public criticism if the Court overturns the Parental Consent statute, the Chief Justice says the public's "incredible lack of information about the whole judicial process" will prevent average Californians from understanding the wisdom of striking down the rights of parents. He relies upon an infamous Bird Court decision *(Myers)* that created an "inalienable right" to taxpayer-funded abortions. The Chief Justice recently argued in a fiery dissent that *Myers* is good law that must be followed and that it likely renders the Parental Consent law unconstitutional.

Ignoring precedent set just a few months previously, the new Supreme Court Chief Justice has instead decided to follow the logic of a debunked and illegitimate Bird Court — a panel of incompetent jurists soundly rejected by Californians for its judicial activism and promulgation of liberal social policies.

The issue is whether parents have a right to give counsel to their children before a major surgical procedure. In a state in which it is *illegal* to give a teenager a tattoo (Penal Code § 653), it is incomprehensible to think that parental consent for abortion is so intrusive as to be unconstitutional! If this Court so finds, then the standard it uses defies common sense and seriously threatens our society's most important building block: the family unit. CPR

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Jargon, Not Argument

Editor's note: The following letter was first brought to light by the English author C.S. Lewis more than 50 years ago, during World War II, and published with much additional correspondence in a similar vein in Lewis's book The Screwtape Letters. Despite its age, Master Tempter Screwtape's advice to apprentice devil Wormwood remains strikingly contemporary, as former California Democrat Party Chairman Bill Press proved a while ago writing in the Los Angeles Times. Press, reverting to his former role of political witling, criticized Gary Aldrich's book Unlimited Access with ample style and flair to prove he has mastered the debating technique Screwtape long ago urged upon youthful imp Wormwood. Confronting Aldrich's prodigious chronicling of ethics mayhem at the Clinton White House, Press wisely ignores the substance of the charges, instead bombarding the man who, Press tells us, is an "Old Fart," a "Bush administration leftover," "the White House's Rodney Dangerfield," "the study hall monitor," a "culture shock" victim, Pennsylvania Avenue's "defender of puritanism," "Sgt. Manners," "an old fuddy-duddy," and much more similarly designed to smother consideration of whether or not what Aldrich says is true. Screwtape would approve.

OBF

MY DEAR WORMWOOD,

I note what you say about guiding your patient's reading and taking care that he sees a good deal of his materialist friend. But are you not being a trifle *naïf?* It sounds as if you supposed that *argument* was the way to keep him out of the Enemy's clutches. That might have been so if he had lived a few centuries earlier. At that time the humans still knew pretty well when a thing was proved and when it was not; and if it was proved they really believed it. They still connected thinking with doing and were prepared to alter their way of life as the result of a chain of reasoning. But what with the weekly press and other such weapons we have largely altered that. Your man has been accustomed, ever since he was a boy, to have a dozen incompatible philosophies dancing about together inside his head. He doesn't think of doctrines as primarily "true" or "false," but as "academic" or "practical," "outworn" or "contemporary," "conventional" or "ruthless." Jargon, not argument, is your best ally in keeping him from the Church. Don't waste time trying to make him think that materialism is *true!* Make him think it is strong, or stark, or courageous — that it is the philosophy of the future. That's the sort of thing he cares about.

The trouble about argument is that it moves the whole struggle onto the Enemy's own ground. He can argue too; whereas in really practical propaganda of the kind I am suggesting He has been shown for centuries to be greatly the inferior of Our Father Below. By the

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very act of arguing, you awake the patient's reason; and once it is awake, who can foresee the result? Even if a particular train of thought can be twisted so as to end in our favour, you will find that you have been strengthening in your patient the fatal habit of attending to universal issues and withdrawing his attention from the stream of immediate sense experiences. Your business is to fix his attention on the stream. Teach him to call it "real life" and don't let him ask what he means by "real."

Remember, he is not, like you, a pure spirit. Never having been a human (Oh that abominable advantage of the Enemy's!) you don't realise how enslaved they are to the pressure of the ordinary. I once had a patient, a sound atheist, who used to read in the British Museum. One day, as he sat reading, I saw a train of thought in his mind beginning to go the wrong way. The Enemy, of course, was at his elbow in a moment. Before I knew where I was I saw my twenty years' work beginning to totter. If I had lost my head and begun to attempt a defense by argument I should have been undone. But I was not such a fool. I struck instantly at the part of the man which I had best under my control and suggested that it was just about time he had some lunch. The Enemy presumably made the counter-suggestion (you know how one can never *quite* overhear what He says to them?) that this was more important than lunch. At least I think that must have been His line for when I said "Quite. In fact much *too* important to tackle at the end of a morning," the patient brightened up considerably; and by the time I had added "Much better come back after lunch and go into it with a fresh mind," he was already half way to the door. Once he was in the street the battle was won. I showed him a newsboy shouting the midday paper, and a No. 73 bus going past, and before he reached the bottom of the steps I had got into him an unalterable conviction that, whatever odd ideas might come into a man's head when he was shut up alone with his books, a healthy dose of "real life" (by which he meant the bus and the newsboy) was enough to show him that all "that sort of thing" just couldn't be true. He knew he'd had a narrow escape and in later years was fond of talking about "that inarticulate sense for actuality which is our ultimate safeguard against the aberrations of mere logic." He is now safe in Our Father's house.

You begin to see the point? Thanks to processes which we set at work in them centuries ago, they find it all but impossible to believe in the unfamiliar while the familiar is before their eyes. Keep pressing home on him the *ordinariness* of things. Above all, do not attempt to use science (I mean, the real sciences) as a defense against Christianity. They will positively encourage him to think about realities he can't touch and see. There have been sad cases among the modern physicists. If he must dabble in science, keep him on economics and sociology; don't let him get away from that invaluable "real life." But the best of all is to let him read no science but to give him a grand general idea that he knows it all and that everything he happens to have picked up in casual talk and reading is "the results of modern investigation." Do remember you are there to fuddle him. From the way some of you young fiends talk, anyone would suppose is was our job to *teach!*

Your affectionate uncle
SCREWTAPE

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CRITICUS

Dog Days

BY G.B. TENNYSON

THE DOG days of summer. That time when Sirius, the so-called "dog star," rises with the sun and supposedly adds to its heat. Sirius is the largest star in the constellation of the Greater Dog *(canis major),* hence dog star, but it actually takes its name from the Greek for "scorch," which is more to the point. Especially this year, as Criticus (who takes his name from the Greek for "judge" or "decide") wields pointed pen again, for the scorching summer heat brings upon him a *Sehnsucht,* a yearning, for what C.S. Lewis called "the Northernness." But in Criticus's fevered case it is as much a physical as an imaginative or spiritual yearning. Lewis defined it as "a vision of huge, clear spaces hanging above the Atlantic in the endless twilight of Northern summer, remoteness, severity ...." One can almost feel the cool in the words. No dog days in them at all. Whereas hereabouts the heat prevents Criticus from concentrating very long on any one great argument. The result is a column composed of several small ones.

"I beg cold comfort" (King John)

BECAUSE HE remembered the novel, Criticus stirred from his lethargy to go to the cinema to see "Cold Comfort Farm," a film widely praised even by such acidulous observers as John Simon. Alas, Simon and the other enthusiasts for this production are wrong. The film was a disappointment, but instructive, as disappointments often are.

Cold Comfort Farm started life in 1932 as a novel by Stella Gibbons (who died, mostly unregarded, in 1989). It is a brilliant piece, long recognized as a minor classic, being a super send-up of a sub-genre of novels that flourished in the teens and twenties of this century but are now largely forgotten. This sub-genre is sometimes politely called the rustic or regional novel, but could more accurately be called the back-to-earth or simply the earthy novel. It reached its apogee in the fictions of Mary Webb, such as *Precious Bane* (1924) and, earlier, *Gone to Earth* (1917). The latter was filmed many years ago and shown variously under its original title and under the title of "The Wild Heart." In it Jennifer Jones plays a slightly crazed Welsh girl who fondles a fox and, though married to a preacher man, ogles the stable master (and he her), all the while offering especially extreme versions of her signature look of suffering agonizing gas pains. In addition to Mary Webb, other practitioners of the earthy novel were Sheila Kaye-Smith, author of *Sussex Gorse* (1916) and *Green Apple Harvest* (1922) and even, as we shall see, the redoubtable D.H. Lawrence, and, stretching on into the thirties in America, Erskine Caldwell, most notably his *God's Little Acre* and *Tobacco Road* (both 1932). It is reasonable to say that the antecedents of the back-to-earth school reach into the nineteenth-century with Thomas Hardy's Wessex novels and all the way to the beginning of that century with Wordsworth and the glorification of the rural and natural.

G.B. Tennyson is Emeritus Professor of English at UCLA. His most recent work is the documentary video, "Owen Barfield: Man and Meaning."

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But enough literary genealogy. The point of the back-to-earth novel was to depict the raw and pulsating life of nature and human nature in a rural setting, to jostle the reader out of his complacent view of life as encompassed by the walls of an upper-class drawing room. Thus in the earthy novel the characters were unpolished but passionate, frequently unlettered but just as frequently cunning. Above all, they *felt,* and the reader could feel them feeling, tumultuously. If you missed "The Wild Heart," you may be familiar with Lawrence's *Lady Chatterley's Lover* (1928), his last novel and one that also bears the imprint of the earthy school. Or, then again, just possibly you're not familiar with it, for the novel is no longer very much read, although famously read and smuggled across borders in its time. (The late Mme. Criticus devised a method of sewing forbidden titles into the interior sleeves of raincoats, if you will. It worked.) Nowadays *Lady Chatterley* is known for being known, and even what they call airport novels have language at least as steamy as that which hauled Lawrence's novel into court and changed obscenity laws from then on. But that's another story. The point here is that *Lady Chatterley* is a tale in which earthy passion thrusts itself into the purlieus of the well-to-do, whereas *Cold Comfort Farm* is a story in which the well-to-do thrust themselves — or more properly, herself — into the purlieus of the earthy. Stella Gibbons may have been thinking as much of Lawrence as of Mary Webb.

Since it was billed as a comedy, they sat waiting to laugh. They waited through the entire length of the film, it turned out.

CRITICUS REMEMBERS a television film version of *Lady Chatterley* that featured Vanessa Redgrave as Lady C. and an obscure actor whose name I have forgotten as her paramour. Ms. Redgrave once said, "I give myself to my parts as to a lover," making her ideal for performing the highminded nonsense that is *Lady Chatterley's Lover.* In the film the giant Vanessa towers over her gardener-lover as they romp about in a rundown woodland cottage or skip through the forest in the buff, as seen in long-distance, soft-focus shots. It is hard not to smile at all this. It points up the inherent silliness of the earthy school, its teetering on the edge of the inadvertently comic. Not that such was intended by Lawrence or by the film makers, of course, but exactly such was intended by Stella Gibbons.

Unfortunately, the film version of the Gibbons novel manages the reverse of the film version of Lawrence's novel. Where "Lady Chatterley" is played with deadly seriousness and comes off as comic, "Cold Comfort Farm" is played for laughs and comes off as very unfunny. The reviewers insisted that it was hilarious, presumably because they had been told it was: "A Cultivated Comedy from John Schlesinger" read the ads, so the critics fell into line. Curiously, none that I saw made any reference to the original context for the novel, which is essential for appreciating the humor in the story. That the context is no longer current makes it all the odder that Schlesinger should now take up the Gibbons novel for a film. But that it was *he* who did so is a large part of the reason that critics have treated the film so respectfully. Schlesinger, creator of "Sunday, Bloody Sunday," is regarded as a master *cinéaste.* If he makes a film, it must be good.

Seeing the film at a midweek matinee performance meant seeing it in a half-empty screening room occupied mainly by oldsters taking advantage of the senior discount and looking for some relief from the heat of a Dog-day afternoon. Since it was billed as a comedy, they sat waiting to laugh. They waited through the entire length of the film, it turned out. The problem with the film is not that it isn't polished and slick and richly photographed; the problem with it is that it is too much so. One suspects that those involved had great fun making this film and that they also knew the original and its context. Indeed, the screenplay is by the satiric novelist Malcolm Bradbury, who surely knows the original and its literary *milieu.* But they forgot that the audience was not so likely to. The result is that the viewer's encounter with the raw world of the country and nature has been Merchant-Ivoried over, so that what is supposed to be squalid and earthy comes off looking like an advertisement for holidays in the English countryside. At any moment one expects to see actress Helena Bonham-Carter pop up wild-eyed from the amber waves of grain that are undulating on the downs.

The idea of the Gibbons novel is to turn the earthy

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novel upside down. The young society girl goes to a rundown farm owned by distant relatives, the Starkadders ("There have always been Starkadders at Cold Comfort Farm," they intone repeatedly, along with "I saw something nasty in the woodshed"), and she sets it all to rights, reducing the ponderous passions and throbbings of the earthy school to nothing more than a lack of good sense and cleanliness. It is rather as though Lady Chatterley had gone to Mellors's cottage, tidied it up, told him to take a bath and just get on with it. Then, like Flora Poste, heroine of *Cold Comfort Farm,* she would get into a little aeroplane with her high society fiancé and fly off into the blue. A brilliant idea. Why didn't D.H. Lawrence think of it? Well, it's enough that Stella Gibbons did.

So there you have it. Constant Readers can now say, "No, but I read the novel."

What is supposed to be squalid and earthy comes off looking like an advertisement for holidays in the English countryside.

"A snapper-up of unconsidered trifles"
(The Winter's Tale)

SOME DEEP-THINKERS across the pond are calling for the restoration of letters on the British telephone dial from which they have disappeared, so that as in America there can be the sort of advertising that tells the reader-viewer-auditor to dial 1-800-MONSTER for your own copy of the complete rap music of Snoop Doggy Dog (to stay with the canine image). I can raise them one on that. What Criticus would like to see is both the enlargement of the size of the letters on the American dial so that one can actually follow these dial-a-word directions and the restoration of word prefixes to reduce what is becoming an unwieldy and unmemorizable sequence of numbers. Of course it would be nice to restore such old Southern California prefixes as STate and GRanite, nicer yet and more in keeping with the three-four pattern, to introduce three-letter prefixes such as MAYfair and CHElsea — or properly California ones like PALms or ENCino or BREntwood — but probably the only way letter prefixes can be brought back is if they can be sold by the telephone company for advertising purposes. The idea would be that constant repetition of a product name in dialling would encourage buying. Even so, one would be content to dial FORd or CHRysler or MERcedes or BMW if that's the only way to get letters back in use. I can hear it now: "Dial 'YUGo ROAD KILL' for your free copy of Dr. Kevorkian's self-help newsletter."

THERE IS also a move over there to combine the news department of the BBC World Service with that of the domestic BBC news, a move quite rightly opposed by all who know and love the World Service. Not that it is quite what it was, as it too has succumbed to certain (transatlantic?) p.c. pressures, namely those to have more women and more regional speakers. Anent which, there is currently circulating a story that is so good it must be true. It runs to the effect that a novice young lady newsreader (what a true word — can't we import it?) on the World Service commenced her broadcast by saying: "It is tenhundred hours Green Witch. Meantime, here is the news." Not at all what they had in mind in the great days of Empire when an African listener described the World Service as "The Truth. Read by Gentlemen."

NOR NEED the Colonies take a back seat when it comes to verbal infelicity in broadcasting. During these same Dog days that sent a weary Criticus to lose it at the movies, he heard the following from professional television and radio speakers:

... it can help if you engage in aerobatic exercise.

... given the recent air disasters many travellers are having second thoughts and are weary of flying.

... it turns out that the veasles maxine may not be so effective.

... there was an earthquake in the Doda-CAN-see Islands.

... the FAA is in charge of the salvation of the wreckage.

... it was the result of a plan that went AW-ree.

... the outage had to do with problems with the Pacific Interty.

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... Elizabeth Dole moved along the convention floor gathering tributaries to her husband.

Hmm. Does that make Bob Dole "Ol' Man River?"

AS DEPRESSING as it is amusing is the conjunction of two listings that came my way during the silly season. One is the University of California "Affirmative Action Data Transmittal" form, which is to be filled out as a condition of employment and, I should suppose, parallels one needed for admission as a student. You must choose your ethnic identity from one of eleven specific categories under five major divisions. So that there be no ambiguity each category is described and defined, as for example, "Black (not of Hispanic origin)" and "Hispanic (including Black individuals whose origins are Hispanic)."

But of course there still is ambiguity and even contradiction. "Origin(s)" is the weasel word of choice. A white person is one having "origins in any of the original peoples of Europe, North Africa, or the Middle East." (Query: are Lapps one of the original peoples of Europe?) A non-Hispanic Black is one "having origins in any of the Black racial groups of Africa." In other words, the dominant issue here is race. At the same time, Hispanic categories are cultural. Thus the Mexican/Mexican American/Chicano category is defined as "persons of Mexican Culture or origin, regardless of race" [Culture is capitalized in the original]. Now, if you are Black but, say, Cuban, you may not claim Black on the form, but must go to the Latin-American/Latino box. It reminds one of the old game of "Scissors-Rock-Paper": scissors cut paper, but paper covers rock, and rock breaks scissors. Culture trumps race if the culture is Hispanic, but race trumps culture if the culture is anything other than Hispanic. This is what the president and chancellors of UC are fighting to retain.

At the same time as the UC affirmative action sheet caught my eye, so did the "Application for Admission" form for a Los Angeles Community College that wafted in with the post or with the daily newspaper. One question on that form reads "Ethnic identity (please check only one)," which seems a bit restrictive, but which is somewhat mitigated by the fact that you have, not UC's eleven choices, but the L.A. Community College District's twenty. And number twenty is "Decline to state."

Of course, if you decline to state, you may be, for all I know, denied admission. Tell them what they want to hear must ever be the watchword when dealing with bureaucrats. When the communists were still in power in Poland a colleague of mine went there on Fulbright to teach for a year. On some form or other he was required to state from what social group he came. He knew enough about things in socialist heaven to know that this might influence what perks would be his, and he needed a place to stay. Therefore he carefully checked for his father's occupational and social category the box reading "worker." He never specified to the pleased authorities that his father was the president of a large U.S. East Coast grocery chain. To be sure, the man did work very hard.

READERS MAY marvel that Criticus has refrained from comment on the Olympics. That is to keep a promise made to Editor Scalawag who inveighed against any further coverage of the Games. But that promise was only for this issue. Who knows what may surface later? CPR

BOOK REVIEW

Emancipation for the Education Plantation

BY DAVID F. FAUSTMAN

SOME DAY, Polly Williams of Milwaukee will be regarded as a great civil rights leader. Today she is reviled by the traditional, liberal civil rights establishment — the ACLU, Citizens for the American Way, the NAACP — for being an uppity, inner-city activist for freedom from government monopoly schools. Some day, this woman, who through sheer tenacity and

David F. Faustman is an attorney practicing in California and a commentator on legal business issues.

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force of character brought school choice to Milwaukee, will be regarded as a visionary. She has correctly identified government-imposed, substandard education for poor black children as the greatest injustice existing in the United States today. She says, "We've got to break these chains before the system turns our children into slaves."

In *Break These Chains,* Daniel McGroarty, formerly an assistant to President Bush, chronicles Polly Williams' attempt to bring school choice to inner-city parents and children trapped on the "education plantation." It is the story of a morally corrupt government education institution that has utterly failed to carry out its intended mission. It is also the story of courageous parents who are fighting against vested interests for educational opportunity and a better life for their children.

WILLIAMS (A BLACK, Democrat state legislator) and her coalition (which includes Republican Governor Tommy Thompson) are opposed at every juncture by the narrow education establishment (bureaucrats and teachers' unions) as well as by the broader liberal establishment (and its "civil rights" litigators). The book provides a detailed, blow by blow account of activism, legislation, and litigation — attacks and counter attacks in what will ultimately be seen as a classic American civil rights struggle.

Where power, patronage, and money are concerned, the entrenched bureaucrat and labor aristocracies seem not to care that black kids in city neighborhoods are doomed to government-run holding pens known as public schools. These schools — cesspools of intellectual failure, hell-

Break These Chains: The Battle for School Choice

by Daniel McGroarty
Forum, 1996,
207 pages, $23.95, cloth

holes of spiritual demise, sinkholes for taxpayer money — are propelled by bureaucratic buffoonery and union-imposed mediocrity. How is it, McGroarty asks, that black leaders like Jesse Jackson have been co-opted into Uncle Tom roles by the teachers' unions whose leadership is largely upper middle class and white? (White teachers, incidentally, send their children to private schools in greater numbers than the general population.) The Reverend Jackson, of course, sends *his* children to private schools along with rich white folks, while hypocritically arguing that his black brothers and sisters should be denied the opportunity. Black parents are beginning to realize they are better served by new leaders like Polly Williams.

Williams and Tommy Thompson have won the fight in the Legislature, but McGroarty describes the tangled web of litigation subsequently spun by the opponents of vouchers in Wisconsin in an attempt to kill school choice ("The Empire Strikes Back"). The unions and bureaucrats have retreated to the courts to thwart the outcome of the democratic process. The legal issues presented, ranging from the constitutionally profound to the disingenuously trivial, will be decided by the Wisconsin Supreme Court, and eventually by the U.S. Supreme Court.

ULTIMATELY, SCHOOL vouchers *à la* Milwaukee, will be the market and moral solution to the downward spiral in public education, and as Bill Kristol declares in the book's introduction, "the most provocative and promising education reform of our time."

Milwaukee can be viewed as a microcosm and struggle for school choice in Wisconsin provides lessons for California. Thomas Sowell has written in *Inside American Education* that only 11 percent of eighth-grade students in California public schools can solve seventh-grade math problems, that objective achievement is sinking while spending soars, and that it is almost impossible to fire a substandard teacher in California. The Council on California Com-

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petitiveness stated that 63 percent of the largest California employers report that entry level job applicants lack a satisfactory education, and that at one of the largest employers in the state, 6 out of 10 applicants flunk examinations geared to seventh-grade knowledge levels. Wealthy Californians can seek out good neighborhood schools or private schools. Poor Black or Hispanic children, however, are condemned to the oblivion of failing government monopoly schools. The bureaucrats defend their turf, and the unions tax their members and spend lavishly to defeat any fundamental reform.

Somewhere in California there may be another Polly Williams — perhaps several — perhaps in Compton, perhaps in Richmond. Sometime soon, this person, or these persons, may emerge with tough, inner-city credentials and solid financial and political backing to capture the attention of the media and to challenge the establishment for school choice on behalf of poor kids. Don't count on the likes of Maxine Waters, Diane Watson, or Juanita MacDonald, or any of the other current legislators who, by and large, feed at the trough of teachers' union money. But, the corrupt status quo cannot stand. As the economists say, if something is unsustainable, it will end. In California, as in Milwaukee, it is inevitable that a successful movement will occur to break the chains that bind our children most in need of freedom. McGroarty's book is a splendid road map for that movement. CPR

Correspondence

(Continued from page 2)

conservative candidates and causes. His membership on the Coastal Commission opens the door for seriously considering him as a candidate for higher office.

How about Governor in 1998?

Allen E. Brandstater
Glendale

Affirmative Discrimination

What was once an honorable policy called *affirmative action,* a policy to reach out to all Americans affirmatively, to give as many as possible the chance to compete for limited government opportunities, and to assure that *no one* — repeat — *no one,* be subject to discrimination, by their *own* government, for any reason; not race, not ethnicity, not sex — has been twisted, corrupted, perverted, by Liberalism and the Democrat Party, into its exact opposite: *affirmative discrimination. Now*-repeat-*now.* Americans are being subjected to discrimination by their *own* government, precisely *because* of their race, their ethnicity, or their sex.

"Two Hispanics here, two Blacks there. Four women, now three whites. Give me two Asians, make them men. Let's throw in a Jew. Now let's see how that adds up. Okay, who's next?" No, that's not the Nazi Party of 1936. That's the Democrat Party of 1996. To our everlasting shame, we have allowed this reprehensible ideology to be imported to our shores and to be implemented — here — in our state. We will end this *forever* in November.

Julio J. Bontempi
North Hollywood

A CCRI Warning: VMI

The recent VMI case destroying a long-respected state tradition and abolishing the concept of single-sex public schools, despite compelling evidence justifying both, should open our eyes to the dangerous implications of the CCRI. Its proponents are somewhat duplicitous in claiming that CCRI (by banning the broad, necessary human function of "discrimination") will wisely end the specific quotas and affirmative action that the state Legislature and courts have mandated, while also telling women seeking "sexual equality" that it will continue to allow them special protection due to "strict scrutiny" and other holdovers of the civil rights acts that caused the mess in the first place. But didn't de Tocqueville predict "weak men and disorderly women" if we pursued the unnatural condition of "sexual equality"? And even though proponents claim CCRI will end AF, doesn't this amount to sexual AF?

Now, bearing out these fears, the Supreme Court in the VMI case (through its disorderly-lady-judge spokesman) has further muddied the waters by refusing to apply "strict scrutiny" but instead applying "equal protection" *from a totally feminist standpoint.* ("No more sexual stereotypes." Oh dear! How awful we must have been!) This simply means a foolish attempt to impose androgyny on the republic, a purely fictional and unwise distortion of the concept of "equal protection of the laws," which was certainly not intended to mean an unnatural "sexual egalitarianism." Since CCRI also imposes sexual egalitarianism supposedly restrained by rhetoric like "reasonably necessary bona fide sexual qualifications" and a "strict scrutiny" that a court can apply however it wishes, it will be interesting to see how the press reacts.

Thus far, to adapt the words of CCRI author Glenn Custred (*CPR,* Correspondence, May/June): "it is a shame the press does not cover such facts as zealously as they do the often mendacious arguments and misleading predictions issued by those who are determined at all costs to preserve the CCRI." For some reason, the obvious solution to our predicament escapes them: Since the Legislature created the

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mess, the Legislature is the proper body to clean it up in the most effective way possible — *by repeal.* Have we got any stereotypical gumption left?

W. Edward Chynoweth
Sanger

Democrats Talk the Talk; Can't Walk the Walk

Since last fall, Orange County Democrats have been the epitome of self-righteous outrage over the Republican campaign to recall and replace GOP turncoat Doris Allen. Led by Linda Moulton-Patterson, (Friend of Bill and liberal former mayor of Huntington Beach) and Jim Toledano (county Democrat Party chairman), they convinced Judge Harold Ford to remove Democrat Laurie Campbell from last October's recall election ballot based on allegations Campbell had not personally gathered the signatures on her election nomination papers, although she attested, under penalty of perjury, to doing so. This coup was accompanied by copious breast beating and loud accusations that Laurie Campbell was a "wholly owned and operated" GOP "plant" induced by Assemblyman Scott Baugh and GOP leaders to run in order to siphon Democrat votes from Moulton-Patterson.

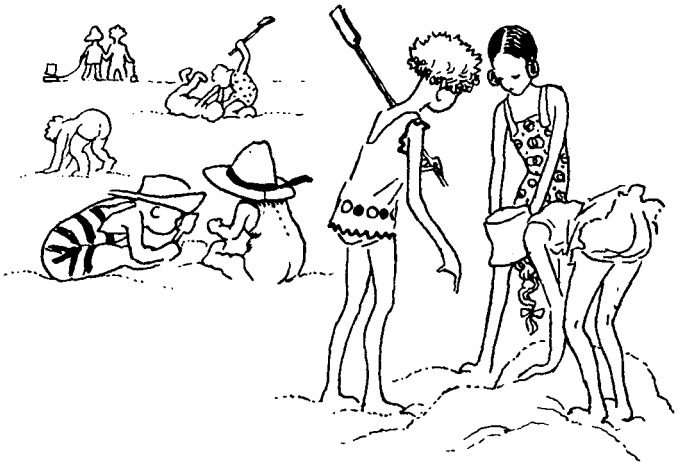
Now, the Dems have been hoist with their own petard. Last December, I filed a complaint with Orange County DA Michael Capizzi alleging that Moulton-Patterson had done the same thing as Campbell. On July 24, Moulton-Patterson pled guilty to a criminal violation of Elections Code §18203 — submitting false nomination papers. Judge Donna Crandall ordered her to pay a fine of $5,400, perform 200 hours of court-approved community service, not run for public office for three years, and "obey other specific conditions which will severely limit her participation in political campaigns" during the three years (no precinct walking, phone-banking, posting campaign signs, etc.).

Although Moulton-Patterson previously insisted she'd collected all the signatures on her nomination papers, she now shrugs off the whole episode, saying her violation "was just a mix-up."

Moulton-Patterson hasn't missed a beat: she attended the Democrat national convention as a delegate, pontificated to reporters about how she is a DEMOCRAT because that Party has "consistently represented the people," not evil corporations. Her husband, former Rep. Jerry Patterson, arrested several years ago for drunk driving, is now running for a community college board seat. Law-breakers in love — a "family values" couple.

MEANWHILE, LAST April, the Party asked county Chairman Toledano to resign after he spent a $10,000 contribution the county Party had received on a campaign mailer for Jim Prince (which is illegal, Prince being, at the time, the Dems' endorsed candidate to unseat Rep. Bob Dornan). When Toledano refused, the Party held a vote to recall him. Sally Alexander, this fall's Democrat opponent to Rep. Dana Rohrabacher (and another vocal complainer about Baugh), joined other Party leaders in opposing Toledano's recall, saying "we do not need to be our own worst enemy in the battle to re-elect President Clinton and other Orange County Democratic nominees." Nothing worse for Democrats than worrying about the truth. Like their heroes, Bill and Hillary Clinton, Orange County Democrats act as though they believe society's rules don't apply to them. They "care." They're trying to do what's best for us. And, anyway, they're just a wee bit better than everybody else.

Leon McKinney
Huntington Beach



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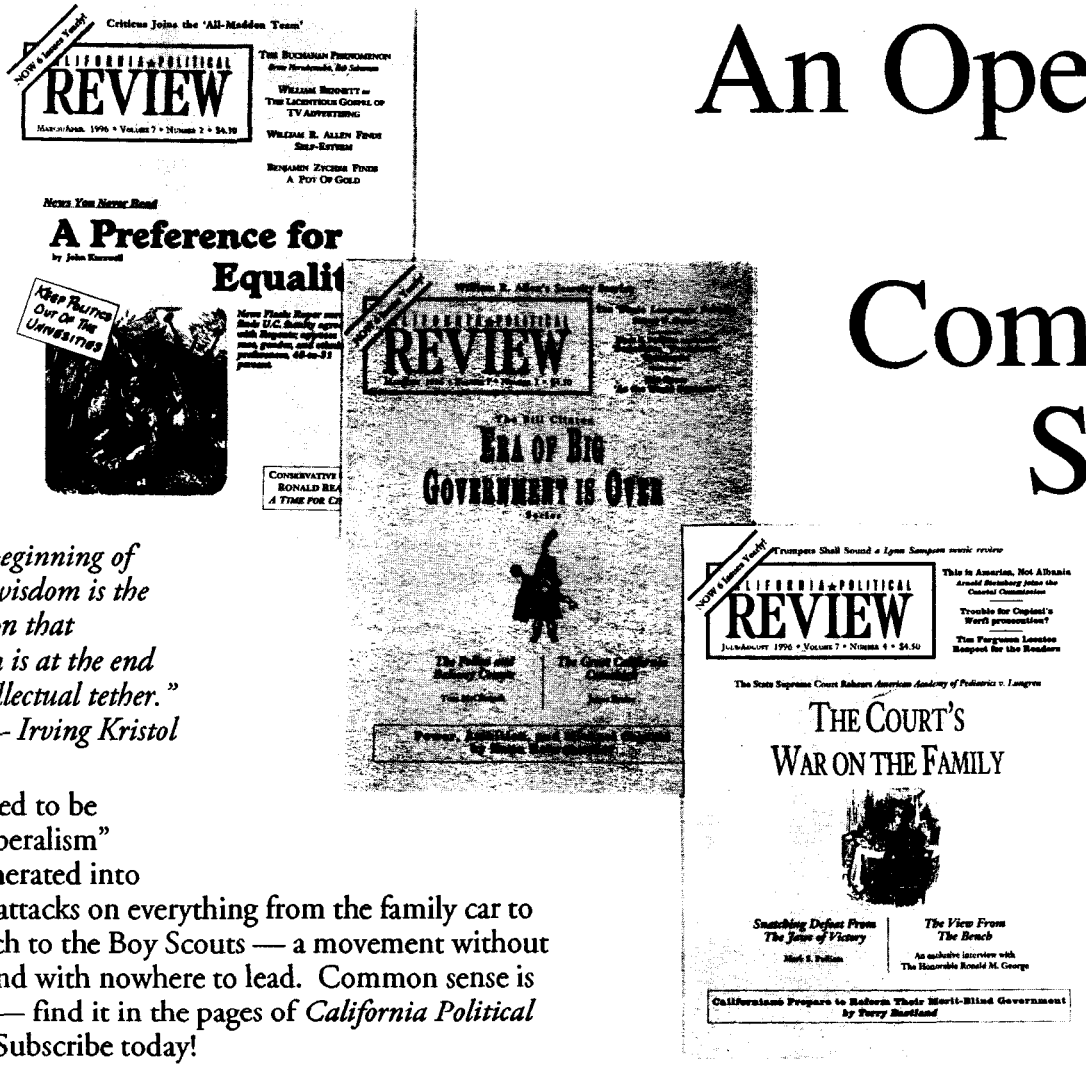
An Opening for Common Sense



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— Irving Kristol

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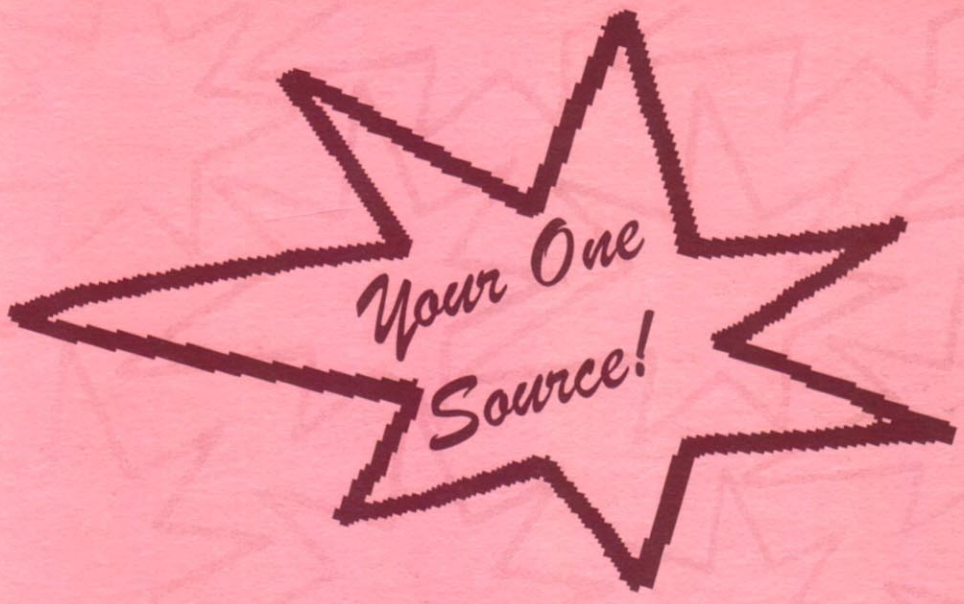

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